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Attorneys for Federal Defendants
Charles Patterson, Amrital Randwala,
Al Martinez and Sherrye Turner

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHARLES J. WRIGHT,
Plaintiff,

v.

CHARLES PATTERSON, AMRITAL
RANDWALA, AL MARTINEZ and
SHERRYE TURNER,

Defendants.

Case No. C
CV 13 3487

NOTICE OF REMOVAL

TO: Clerk, Superior Court of California
County of Contra Costa
100 37th Street
Richmond, CA 94805

Charles J. Wright
2655 Appian Way
Pinole, CA 94564

PLEASE TAKE NOTICE that on this day case number RSC 13-0414 pending before the
Contra Costa County Superior Court Small Claims Division is being removed to the United
States District Court for the Northern District of California pursuant to 28 U.S.C. §§ 1441(a),
1441(c), 1442(a)(1) and 2679(d)(2) on behalf of federal defendants Charles Patterson, Amrital
Randwala, Al Martinez and Sherrye Turner. Upon direction by the Attorney General of the

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1 United States and pursuant to 28 U.S.C. § 1446, the undersigned attorneys hereby present the
2 following facts to the Judges of the United States District Court for the Northern District of
3 California.

4 1. On July 3, 2013, Charles J. Wright filed a small claims complaint against four United
5 States Postal Service employees. The employees are Charles Patterson (Assistant Postmaster),
6 Amrital Randwala (Postmaster), Al Martinez (Postal Manager), and Sherrye Turner (Supervisor).
7 Plaintiff alleges that a Postal Service driver caused damage to his water meter and water line. As
8 a result of this incident and other alleged actions by Postal Service employees, Plaintiff seeks
9 \$2500 in damages.

10 2. It is unknown at this time when any of the federal defendants were served. On
11 July 17, 2013, the Postal Service notified the United States Attorney's Office about this lawsuit.
12 The United States Attorney's Office has not been served with process pursuant to Rule 4(i), Fed.
13 R. Civ. P. A copy of the Plaintiff's Claim and Order to Go to Small Claims Court (Small Claims
14 complaint) is attached hereto as Exhibit A, and constitutes the only process or pleading which
15 has been received to date. The trial date in Small Claims court is scheduled for August 5, 2013
16 at 1:15 p.m. It should be vacated upon the filing of this notice.

17 3. This action is one arising under the Constitution and Laws of the United States, and it
18 is therefore an action over which the United States District Courts have original jurisdiction. A
19 civil action in state court seeking damages from federal officials for acts taken under color of
20 federal office may be removed to federal court provided that the defendant has a colorable federal
21 defense or can otherwise articulate a connection between the performance of his
22 duties and the acts or omissions alleged. See 28 U.S.C. § 1331. It is removable to this court
23 pursuant to 28 U.S.C. § 1441(a), (c).

24 4. Upon certification by the Attorney General, this action shall be removed to the United
25 States District Court any time prior to trial. Pursuant to written delegation from Melinda Haag,
26 the duly appointed United States Attorney for the Northern District of California, the Chief of the
27 Civil Division has been authorized to exercise on behalf of the United States Attorney the

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1 authority vested in him by the Attorney General, pursuant to 28 C.F.R. § 15.4. The Chief of the
2 Civil Division has certified that Charles Patterson, Armital Randwala, Al Martinez and Sherrye
3 Turner were acting within the course and scope of their employment with the Postal Service. *See*
4 Certification Pursuant to 28 U.S.C. § 2679(d). This certification is conclusive for purposes of
5 removal. 28 U.S.C. § 2679(d)(2).

6 5. Upon removal the United States is automatically substituted for federal defendants
7 Charles Patterson, Armital Randwala, Al Martinez and Sherrye Turner, and this action will
8 proceed as an action against the United States of America pursuant to 28 U.S.C. § 1442.

9 6. A federal defendant removing under Section 1442 must demonstrate three things - that
10 it is a "person" within the meaning of the statute, that there is a "casual nexus" between its
11 actions and plaintiff's claim, and that it can assert a "colorable federal defense." *Durham v.*
12 *Lockheed*, 445 F.3d 1247, 1251 (9th Cir. 2006). Here, the federal defendants have met the three-
13 part test for removal set forth in *Durham*. Moreover, with respect to the third requirement,
14 "colorable" is interpreted broadly because "one of the most important reasons for removal is to
15 have the validity of the defense of official immunity tried in a federal court." *Jefferson County,*
16 *Ala. v. Acker*, 527 U.S. 423, 431 (1999).

17 7. "By removing this case, the federal defendants exercise a right firmly established in
18 longstanding federal statutes. *See Watson v. Philip Morris Companies, Inc.*, 551 U.S. 142, 147-
19 151, 127 S.Ct. 2301, 2305 (2007) (original federal officer removal statute dates to the War of
20 1812 era). Furthermore, the right of removal by federal officers is "absolute for conduct
21 performed under color of federal office." *Arizona v. Manypenny*, 451 U.S. 232, 242 (1981);
22 *Durham v. Lockheed Martin Corp.*, 445 F.3d 1247, 1252-53 (9th Cir. 2006)." Thus, removal of
23 this case is appropriate even though the federal defendants may have as a colorable defense the
24 contention that the Court lacks subject matter jurisdiction over the merits.

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1 8. A copy of this Notice is being filed with the Clerk of the Contra Costa County
2 Superior Court. This filing will automatically effect the removal action described above in its
3 entirety to this Court for all future proceedings pursuant to 28 U.S.C. § 1446(d).

4
5 Respectfully submitted,

6 MELINDA HAAG
7 United States Attorney

8 Dated: July 29, 2013

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10 ANN MARIE REDING
11 Assistant United States Attorney
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Exhibit A

SC-100 Plaintiff's Claim and ORDER to Go to Small Claims Court

Notice to the person being sued:

- You are the Defendant if your name is listed in (2) on page 2 of this form. The person suing you is the Plaintiff, listed in (1) on page 2.
- You and the Plaintiff must go to court on the trial date listed below. If you do not go to court, you may lose the case.
- If you lose, the court can order that your wages, money, or property be taken to pay this claim.
- Bring witnesses, receipts, and any evidence you need to prove your case.
- Read this form and all pages attached to understand the claim against you and to protect your rights.

Aviso al Demandado:

- Usted es el Demandado si su nombre figura en (2) de la página 2 de este formulario. La persona que lo demanda es el Demandante, la que figura en (1) de la página 2.
- Usted y el Demandante tienen que presentarse en la corte en la fecha del juicio indicada a continuación. Si no se presenta, puede perder el caso.
- Si pierde el caso la corte podría ordenar que le quiten de su sueldo, dinero u otros bienes para pagar este reclamo.
- Lleve testigos, recibos y cualquier otra prueba que necesite para probar su caso.
- Lea este formulario y todas las páginas adjuntas para entender la demanda en su contra y para proteger sus derechos.

Clerk stamps date here when form is filed

Fill in court name and street address

Superior Court of California, County of
CONTRA COSTA
100 37TH STREET

RICHMOND, CA 94805
GEORGE D. CARROLL COURTHOUSE

Clerk fills in case number and case name

Case Number:

RSC 13-0414
Case Name:
WRIGHT v. PATTERSON

Order to Go to Court

The people in (1) and (2) must go to court: (Clerk fills out section below.)

Trial Date	Date	Time	Department Name and address of court if different from above
	1. 8-5-13	1:15pm	57
	2.		SUPERIOR COURT 100-37TH STREET RICHMOND, CA 94805
	3.		
Date: JUL - 3 2013		Clerk, by	Deputy

Instructions for the person suing:

- You are the Plaintiff. The person you are suing is the Defendant.
- Before you fill out this form, read Form SC-100-INFO, *Information for the Plaintiff*, to know your rights. Get SC-100-INFO at any courthouse or county law library, or go to www.courts.ca.gov/smallclaims/forms.
- Fill out pages 2 and 3 of this form. Then make copies of all pages of this form. (Make 1 copy for each party named in this case and an extra copy for yourself.) Take or mail the original and these copies to the court clerk's office and pay the filing fee. The clerk will write the date of your trial in the box above.
- You must have someone at least 18 - not you or anyone else listed in this case - give each Defendant a court-stamped copy of all 5 pages of this form and any pages this form tells you to attach. There are special rules for "serving," or delivering, this form to public entities, associations, and some businesses. See Forms SC-104, SC-104B, and SC-104C.
- Go to court on your trial date listed above. Bring witnesses, receipts, and any evidence you need to prove your case.

Case Number:

Plaintiff (list name): CHARLES J. WRIGHT

1 The Plaintiff (the person, business, or public entity that is suing) is:

Name: CHARLES J. WRIGHT Phone: 510.262.9026

Street address: 2655 APPIAN WAY, PINOLE, CA 94564

Street City State Zip

Mailing address (if different): Street City State Zip

If more than one Plaintiff, list next Plaintiff here:

Name: Phone:

Street address: Street City State Zip

Mailing address (if different): Street City State Zip

☐ Check here if more than 2 Plaintiffs and attach Form SC-100A☐ Check here if either Plaintiff listed above is a sole business owner or a fictitious name. If so, attach Form SC-103

2 The Defendant (the person, business, or public entity being sued) is:

Name: CHARLES PATTERSON, ASSISTANT POSTMASTER Phone: 510.262.6910

Street address: 535 APPIAN WAY, EL SOBRANTE, CA 94803-9991

Street City State Zip

Mailing address (if different): Street City State Zip

If more than one Defendant, list next Defendant here:

Name: AMRITAL RANDWALA, POSTMASTER Phone: 510.262.6910

Street address: 535 APPIAN WAY, EL SOBRANTE, CA 94803-9991

Street City State Zip

Mailing address (if different): Street City State Zip

☒ Check here if more than 2 Defendants and attach Form SC-100A☐ Check here if any Defendant is an active military duty, and write his or her name here:

3 The Plaintiff claims the Defendant owes \$ 2,500.00. (Explain below):

a. Why does the Defendant owe the Plaintiff money?

DRIVER OF MAIL TRUCK BROKE METER AND WATER LINE. EBMUD WANTS \$1200+ FOR WATER (LEAKAGE). \$600.00 FOR PLUMBING REPAIRS. \$700.00 FOR INCREDIBLE RUDENESS BY BOTH ASSISTANT POSTMASTER

b. When did this happen? (Date): APPROX. 01/20/2013

If no specific date, give the time period: Date started: JANUARY 2013 Through: MAY 2013

c. How did you calculate the money owed to you? (Do not include court costs or fees for service.)

1) WATER CHARGES, 2) PLUMBING BILLS, 3) NEEDLESS RUDENESS, WASTE OF TIME, AND LYING BY OMISSION

☒ Check here if you need more space. Attach one sheet of paper or Form MC-103 and write "SC-100 Item 3" at the top

SC-100A**Other Plaintiffs or Defendants**

Case Number: _____

☒ This form is attached to Form SC-100 (item _____).**1 If more than 2 plaintiffs (person, business, or entity suing), list their information below:**

Other plaintiff's name: _____

Street address: _____ Phone: _____

City: _____ State: _____ Zip: _____

Mailing address (if different): _____

City: _____ State: _____ Zip: _____

Is this plaintiff doing business under a fictitious name? ☐ Yes ☐ No If yes, attach Form SC-103

Other plaintiff's name: _____

Street address: _____ Phone: _____

City: _____ State: _____ Zip: _____

Mailing address (if different): _____

City: _____ State: _____ Zip: _____

Is this plaintiff doing business under a fictitious name? ☐ Yes ☐ No If yes, attach Form SC-103☐ Check here if more than 4 plaintiffs and fill out and attach another Form SC-100A**2 If more than 2 defendants (person, business, or entity being sued), list their information below:**Other defendant's name: AL MARTINEZStreet address: 1025 NEVIN AVENUE Phone: 510.232.3937City: RICHMOND State: CA Zip: 94801-3100

Mailing address (if different): _____

City: _____ State: _____ Zip: _____

Other defendant's name: SHERRYE TURNERStreet address: 535 APRIL WAY Phone: 510.232.3937City: EL SOBRANTE State: CA Zip: 94803-9991

Mailing address (if different): _____

City: _____ State: _____ Zip: _____

☐ Check here if more than 4 defendants and fill out and attach another Form SC-100A**3 I understand that by filing a claim in small claims court, I have no right to appeal this claim.****4 I have not filed, and understand that I cannot file, more than two small claims cases for more than \$2,500 in California during this calendar year.**

I declare under penalty of perjury under California state law that the information above and on any attachments to this form is true and correct.

Date: 07/02/2013 CHARLES J. WRIGHT
Type or print your nameCharles J. Wright
Sign your nameDate: _____
Type or print your name_____
Sign your name

PLAINTIFF/PETITIONER CHARLES J. WRIGHT

CASE NUMBER

DEFENDANT/RESPONDENT CHARLES PATTERSON, ASSISTANT POSTMASTER
AMRITAL RANDWALA, POSTMASTER AL MARTINEZ, SHERRY TURNER

DECLARATION

(This form must be attached to another form or court paper before it can be filed in court.)

SC-100 ITEM 3 CONTINUED:

CHARLES PATTERSON AND POSTMASTER AMRITAL RANDWALA

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date 07/02/2013

CHARLES J. WRIGHT

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

☐ Attorney for ☒ Plaintiff ☐ Petitioner ☐ Defendant
☐ Respondent ☐ Other (Specify)

Case Number

Plaintiff (list names) CHARLES J. WRIGHT

- 4 You must ask the Defendant (in person, in writing, or by phone) to pay you before you sue. Have you done this? ☒ Yes ☐ No

If no, explain why not. ON THREE SEPARATE OCCASIONS I PROVIDED BILLS. THE POSTMASTER AND ASSISTANT POSTMASTER IGNORED THEM. ON THE THIRD TRY, THE AMPG WAS RUDE IN THE LOBBY FULL OF POSTAL PATRONS.

- 5 Why are you filing your claim at this courthouse?

This courthouse covers the area *(check the one that applies)*

- a. ☒ (1) Where the Defendant lives or does business (4) Where a contract (written or spoken) was made, signed, performed, or broken by the Defendant or where the Defendant lived or did business when the Defendant made the contract
- (2) Where the Plaintiff's property was damaged
- (3) Where the Plaintiff was injured
- b. ☐ Where the buyer or lessee signed the contract, lives now, or lived when the contract was made, if this claim is about an offer or contract for personal, family, or household goods, services, or loans. (Code Civ. Proc., § 395(b))
- c. ☐ Where the buyer signed the contract, lives now, or lived when the contract was made, if this claim is about a retail installment contract (like a credit card) or with Code of 1812 (10)
- d. ☐ Where the buyer signed the contract, lives now, or lived when the contract was made, or where the vehicle is permanently garaged, if this claim is about a vehicle finance sale. (Civil Code, § 2984.4)
- e. ☐ Other (specify): _____

- 6 List the zip code of the place checked in (5) above (if you know) 94803

- 7 Is your claim about an attorney-client fee dispute? ☐ Yes ☒ No

If yes, and if you have had arbitration, fill out Form SC-107, attach it to this form, and check here ☐

- 8 Are you suing a public entity? ☒ Yes ☐ No

If yes, you must file a written claim with the entity first. ☒ A claim was filed on (date) 01/24/2013, 03/24/2013, 5/24/2013
If the public entity denies your claim or does not answer within the time allowed by law, you can file this form

- 9 Have you filed more than 12 other small claims within the last 12 months in California?

☐ Yes ☒ No If yes, the filing fee for this case will be higher.

- 10 I understand that by filing a claim in small claims court, I have no right to appeal this claim.

- 11 I have not filed, and understand that I cannot file, more than two small claims cases for more than \$2,500 in California during this calendar year.

I declare, under penalty of perjury under California State law, that the information above and on any attachments to this form is true and correct.

Date: 7/2/2013 CHARLES J. WRIGHT
Plaintiff types or prints name here

Date: _____
Second Plaintiff types or prints name here

Charles J. Wright
Plaintiff signs here

Second Plaintiff signs here



Requests for Accommodations

Assistive listening systems, computer-assisted, real-time captioning, or sign language interpreter services are available if you ask at least 5 days before the trial. Contact the clerk's office for Form MC-410, Request for Accommodations by Persons With Disabilities and Response. (Civil Code, § 54.8)

SC-100**Information for the Defendant (the person being sued)**

"Small claims court" is a special court where claims for \$5,000 or less are decided. A "natural person" (not a business or public entity) may generally claim up to \$10,000, including a sole proprietor. (*See below for exceptions.) The process is quick and cheap. The rules are simple and informal.

You are the Defendant - the person being sued. The person who is suing you is the Plaintiff.

Do I need a lawyer?

You may talk to a lawyer before or after the case. But you *may not* have a lawyer represent you in court (unless this is an appeal from a small claims case).

How do I get ready for court?

You don't have to file any papers before your trial, unless you think this is the wrong court for your case. But bring to your trial any witnesses, receipts, and evidence that supports your case. And read "Be Prepared for Your Trial" at www.courts.ca.gov/smallclaims/prepare.

What if I need an accommodation?

If you have a disability or are hearing impaired, fill out Form MC-410, *Request for Accommodations*. Give the form to your court clerk or the ADA/Access Coordinator.

What if I don't speak English well?

Bring an adult who is not a witness to interpret for you, or ask the court clerk for an interpreter at least five days before your court date. A court-provided interpreter may not be available or there may be a fee for using a court interpreter unless you qualify for a fee waiver. You may ask the court for a list of interpreters and also the *Application for Waiver of Court Fees and Costs* (Form FW-001).

Where can I get the court forms I need?

Go to any courthouse or your county law library, or print forms at www.courts.ca.gov/smallclaims/forms.

What happens at the trial?

The judge will listen to both sides. The judge may make a decision at your trial or mail the decision to you later.

What if I lose the case?

If you lose, you can appeal. You'll have to pay a fee. (Plaintiffs cannot appeal their own claims.)

- If you were at the trial, file Form SC-140, *Notice of Appeal*. You must file within 30 days after the judge's decision.
- If you were *not* at the trial, fill out and file Form SC-135, *Notice of Motion to Vacate Judgment and Declaration*, to ask the judge to cancel the judgment (decision). If the judge does not give you a new trial, you have 10 days to appeal the decision. File Form SC-140.

For more information on appeals, see: www.courts.ca.gov/smallclaims/appeals.

Do I have options?

Yes. If you are being sued, you can:

- Settle your case before the trial.** If you and the Plaintiff agree on how to settle the case, both of you must notify the court. Ask the Small Claims Advisor for help.
- Prove this is the wrong court.** Send a letter to the court *before* your trial, explaining why you think this is the wrong court. Ask the court to dismiss the claim. You must serve (give) a copy of your letter (by mail or in person) to all parties. (Your letter to the court must say you have done this.)
- Go to the trial and try to win your case.** Bring witnesses, receipts, and any evidence you need to prove your case. To make sure the witnesses go to the trial, fill out Form SC-107, and the clerk will subpoena (order) them to go.
- Sue the person who is suing you.** File Form SC-120, *Defendant's Claim*. There are strict filing deadlines you must follow.
- Agree with the Plaintiff's claim and pay the money.** Or, if you can't pay the money now, go to your trial and say you want to make payments.
- Let the case "default."** If you don't settle and do not go to the trial (default), the judge may give the Plaintiff what he or she is asking for plus court costs. If this happens, the Plaintiff can legally take your money, wages, and property to pay the judgment.

What if I need more time?

You can change the trial date if:

- You cannot go to court on the scheduled date (you will have to pay a fee to postpone the trial) *or*
- You did not get served (receive this order to go to court) at least 15 days before the trial (or 20 days if you live outside the county) *or*
- You need more time to get an interpreter. One postponement is allowed, and you will not have to pay a fee to delay the trial.

Ask the Small Claims Clerk about the rules and fees for postponing a trial. Or fill out Form SC-150 (or write a letter) and mail it to the court *and* to all other people listed on your court papers before the deadline. Enclose a check for your court fees, unless a fee waiver was granted.

**Need help?**

Your county's Small Claims Advisor can help for free.

Or go to www.courts.ca.gov/smallclaims/advisor

*Exceptions: Different limits apply in an action against a defendant who is a guarantor (See Code Civ. Proc. § 116.22(f)) or in an action brought by a natural person for damages for bodily injuries resulting from an automobile accident: a \$2,500 limit applies if a defendant is covered by an automobile insurance policy that includes a duty to defend. (See Code Civ. Proc. § 116.22.)

